

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No. 07-AFC-3
for the Sentinel Energy Project)
By the CPV Sentinel, LLC)
-----)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, JULY 19, 2010
10:12 A.M.

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Will Mitchell, Sentinel

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Shana Lazerow, Esq., Communities for a Better Environment

GOVERNMENT

Barbara Baird, Esq., South Coast Air Quality Management
District
Rick Rothman, South Coast Air Quality Management District
Dale Evanson, Riverside County Fire Department (via
telephone conference)

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PROCEEDINGS

1
2 PRESIDING MEMBER BOYD: All right, folks, good
3 morning. Sorry to delay you. The siting committee in
4 another case did you an impromptu, real quick
5 get-together.

6 Well, good morning, and welcome to the
7 evidentiary hearing of the proposed CPV Sentinel Energy
8 Project. The committee members present are present. I'm
9 Commissioner Jim Boyd, the presiding and only commissioner
10 left standing on this case. And I'm joined by, of course,
11 Hearing Officer Ken Celli. This case is so old that my
12 fellow committee member's term ran out, and is no longer
13 with us.

14 In any event, on my right is my advisor Tim
15 Olson, who also is kind of new to this case. I've been
16 through several advisors since this -- I think we started
17 this particular case.

18 So in any event, my voice is hanging in here a
19 little bit better today, so nonetheless, I look forward to
20 Mr. Celli doing a lot of the talking.

21 And let's move immediately to the introductions.
22 And I'd like to start with the staff first.

23 Mr. Ratcliff, Ratliff -- I'll get your name
24 right.

25 MR. RATLIFF: Yes. Dick Ratliff counsel for

1 staff. I have with me also Ms. Holmes, Caryn Holmes, who
2 is the counsel for the case and who is assisting me today,
3 as well as Bob Worl, who is the acting project manager
4 today.

5 PRESIDING MEMBER BOYD: Okay. Applicant,
6 Mr. Carroll.

7 MR. RATLIFF: And in addition, I add that Steve
8 Radis, who is the staff witness, is on the line to answer
9 committee questions.

10 PRESIDING MEMBER BOYD: Thank you.

11 Mr. Carroll, applicant.

12 MR. CARROLL: Good morning. Mike Carroll with
13 Latham & Watkins on behalf of the applicant. And I have
14 with me for today, Mark Turner, and Will Mitchell, both of
15 CPV Sentinel, LLC.

16 Thank you.

17 HEARING OFFICER CELLI: Intervenors. How about
18 California Communities Against Toxics?

19 MS. JOHNSON MESZAROS: Good morning. My name is
20 Angela Johnson Meszaros. I am counsel to California
21 Communities Against Toxics.

22 PRESIDING MEMBER BOYD: It's good to meet you.
23 And I've had lots of correspondence from you, but never
24 have had you in my path; our paths, we've been going
25 different directions. In any event --

1 MS. JOHNSON MESZAROS: It's nice to have a face
2 to go with the e-mail line, right?

3 HEARING OFFICER CELLI: CBE, or Communities for a
4 Better Environment?

5 MS. LAZEROW: Good morning, Commissioner Boyd.
6 Shana Lazerow on behalf of CBE.

7 PRESIDING MEMBER BOYD: Welcome.

8 Are there any elected officials in the room or on
9 the phone who would want to be introduced into the record
10 and announce themselves?

11 Okay. Other government agency representatives,
12 including South Coast?

13 MS. BAIRD: Good morning, Commissioner Boyd.
14 Barbara Baird, district counsel here for the South Coast.
15 I also I have, as Mr. Ratliff mentioned, Mr. Mohsen Nazemi
16 to answer committee questions, and then also Mr. Rick
17 Rothman, who is here on the matter of the district's
18 motion to exclude the proposed testimony of Michael
19 Harris. And Mr. Rothman will be prepared to address that
20 issue.

21 PRESIDING MEMBER BOYD: Okay. Thank you.

22 Any other government agencies in the room, on the
23 phone, who would like to indicate on the record their
24 presence?

25 MR. EVANSON: Dale Evanson, deputy fire marshal

1 for Riverside County Fire Department.

2 PRESIDING MEMBER BOYD: Welcome.

3 Any others?

4 If not, I would like to acknowledge our public
5 advisor, Jennifer Jennings, who's sitting in the back with
6 her hand up. She will help any of you who have questions
7 about the process and procedures of the hearing. She
8 stocks the supply of little blue cards that we like to
9 have filled out for anyone who wants to speak to the
10 matter at the public portion of the discussion.

11 Anyone else on the phone who would want to be
12 introduced?

13 Okay. Then I'm going to turn the hearing over to
14 Hearing Officer Ken Celli and rest my scarce voice a
15 little bit. Thanks.

16 HEARING OFFICER CELLI: Thank you, Commissioner.

17 If there are any members of the public who would
18 like to make a comment today, whether it be oral or in
19 writing, please see Ms. Jennings, and she will have you
20 fill out a blue card, and we will know that you're here
21 and know that you want to make a public comment. And
22 that's how we are able to respond to your comments at that
23 time.

24 Today's evidentiary hearing is a formal
25 adjudicatory proceeding to receive evidence into the

1 formal evidentiary record from the parties. Only the
2 parties, which are the applicant, intervenors, and CEC
3 staff, may present evidence for introduction into the
4 formal evidentiary record, which is the only evidence upon
5 which the commission may base its decision for law.

6 Technical rules of evidence are generally
7 followed, however, any relevant, non-cumulative evidence
8 may be admitted if it is the sort of evidence upon which
9 responsible persons are accustomed to rely in the conduct
10 of serious affairs.

11 Testimony offered by the parties shall be under
12 oath. Each party shall have the right to present and
13 cross-examine witnesses, introduce exhibits, and to rebut
14 evidence of another party. Questions of relevance will be
15 decided by the committee. Hearsay evidence may be used to
16 supplement or explain other evidence but shall not be
17 sufficient in itself to support a finding.

18 The committee will rule on motions and
19 objections. The committee may take official notice of
20 matters within the energy commission's field of competence
21 and of any fact that may be judicially noticed by
22 California courts.

23 The official record of this proceeding includes
24 sworn testimony of the parties' witnesses, the reporter's
25 transcript of the evidentiary hearing, the exhibits

1 received into evidence, briefs, pleadings, orders,
2 notices, and comments submitted by members of the public.

3 The committee's decision will be based solely on
4 the record of competent evidence in order to determine
5 whether the project complies with applicable law.

6 Members of the public who are not parties are
7 welcome and invited to observe these proceedings. There
8 will also be an opportunity for the public to provide
9 comment before we close the hearing today. Depending upon
10 the number of persons who wish to speak, the committee may
11 limit the time allowed for each speaker.

12 This public comment period is intended to provide
13 an opportunity for persons who attend the hearing in
14 person or by telephone to address the committee. It is
15 not an opportunity to present written or recorded or
16 documentary materials. Such materials may be docketed and
17 submitted to the energy commission for inclusion in the
18 administrative record however.

19 Members of the public who wish to speak should
20 fill out fill out a blue card provided by the public
21 advisor. If you would prefer not to speak, but would like
22 to submit a written comment, the blue card has a space to
23 do that.

24 The exhibit list has been distributed, and I left
25 a few copies on the table by the door. It's been

1 distributed to the parties electronically, and the parties
2 were asked to bring copies today for their use. We will
3 use this list to organize the receipt of evidence in the
4 record. The parties may offer their list of evidence into
5 evidence.

6 The way we will proceed today, again, this is --
7 we've already taken and closed the record on every topic
8 in the CPV Sentinel except air quality, so this is
9 strictly limited to the air quality topic.

10 The way we will proceed is that the applicant
11 will -- because the applicant has the burden of proof, the
12 applicant will call its witnesses on direct or put on
13 whatever evidence it wants to put in followed by
14 cross-examination by the other parties.

15 After the applicant has moved in all its exhibits
16 and witnesses into evidence, staff will call its witnesses
17 on direct followed by cross-examination by the other
18 parties, and so on until all of the parties have moved
19 their there evidence into the record with regard to air
20 quality. That's the normal way we do things. We'll see
21 if we can stick to that.

22 Before we take evidence, we will need to rule on
23 the following motions. There were two motions brought.
24 One was applicant's motion to exclude updated declaration
25 of Julia May that was filed on June 30th, 2010; and the

1 other motion was South Coast Air Quality Management
2 District's motion to disqualify Michael Harris as a
3 witness.

4 If I could just have a moment -- I'm managing the
5 WebEx from up here as well, and it was blinking, so I need
6 to see if there's something --

7 Okay. We have a number of people on the phone.

8 Okay. So first as to the applicant's motion to
9 exclude the updated declaration of Julia May filed
10 June 30th, 2010, we received the applicant's motion on
11 July 7th, 2010, which established that the updated
12 declaration was filed two weeks past the deadline set by
13 the committee. The prejudice alleged was the parties were
14 denied an opportunity to file a written rebuttal.

15 The committee's aware of the counsel for CBE was
16 out of the country until, I guess, today or yesterday.

17 MS. LAZEROW: Saturday.

18 HEARING OFFICER CELLI: Saturday. Well, welcome
19 back.

20 MS. LAZEROW: Saturday evening. Thank you.

21 HEARING OFFICER CELLI: And I hope it was a
22 wonderful trip.

23 But we acknowledge that CBE was unavailable to
24 respond to the motion. The updated declaration amounts to
25 10 pages and contains 69 pages of attachments, to wit, a

1 four-page document identified as "AP42, Abrasive
2 Blasting," an eight-page document identified as "South
3 Coast Air Quality Management District Guidance Regarding
4 PM from Aggregate," a 44-page document identified as
5 "Application for Certification 5.1 Oakley Power Plant,"
6 and a four-page document identified as a (inaudible)
7 "Generation Offset Calculations."

8 The committee observes that the original
9 declaration of Julia May, which was timely filed on
10 June 15th, 2010, presented her approach to rebutting the
11 Air Quality Management District's calculations of ERCs
12 based upon six shutdowns. The updated declaration simply
13 continues with the approach by criticizing five more
14 shutdowns.

15 The committee finds that although the updated
16 declaration of Julia May was untimely, the information
17 contained therein was foreseeable to the other parties
18 based upon disclosures made in CPV's pre-hearing
19 conference statement. The committee is interested in
20 hearing the other parties' responses to the allegations
21 made in both declarations of Julia May, and the committee
22 finds that the parties are not prejudiced by the late
23 filing because they will have an opportunity to rebut the
24 testimony in today's hearing. Therefore, the committee
25 will allow CBE to move Julia May's June 30th, 2010,

1 updated declaration into the record and denies the motion
2 to exclude it.

3 To be clear, the committee is not ruling that
4 Julia May's updated declaration is received into evidence,
5 the ruling simply allows CBE to move the testimony into
6 the record over an objection of untimeliness.

7 As to South Coast's June 16th, 2010, motion to
8 disqualify Michael Harris as a witness -- is he here?

9 Okay. Is he going to be on the phone?

10 And for the record, Ms. Johnson Meszaros shook
11 her head.

12 MS. JOHNSON MESZAROS: No, he is not here. He
13 will not be on the phone.

14 HEARING OFFICER CELLI: Thank you.

15 South Coast seeks to prevent disclosure of
16 confidential communications subject to attorney-client
17 privilege arising from Michael Harris's legal
18 representation of South Coast between 2002 and 2007.

19 California Communities Against Toxics, which I'm
20 going to refer to as "CCAT" throughout these proceedings,
21 seeks to offer Michael Harris as an expert witness, and
22 they filed an opposition on July 1st, 2010, claiming that
23 South Coast lacks standing to challenge Mr. Harris's
24 participation as a witness and that Mr. Harris's prior
25 representation of South Coast was not substantially

1 related to the testimony that will be offered by CCAT and
2 is not adverse to South Coast Air Quality Management
3 District.

4 South Coast Air Quality Management District filed
5 a reply claiming standing and reiterating their position
6 that Mr. Harris's previous employment with South Coast
7 creates a conflict of interest that should preclude him
8 from testifying for CCAT.

9 Energy commission staff filed a rebuttal on
10 June 30st, 2010, arguing that Michael Harris's declaration
11 should be treated as legal argument only and not as
12 evidence.

13 The committee has received enough briefing from
14 all of the parties on the issue and makes the following
15 observations and findings: First, South Coast Air Quality
16 Management District is not a party; South Coast, as a
17 governmental agency, may, but is not required, to
18 intervene to become a party to participate in energy
19 commission siting hearings.

20 Nevertheless, air districts are required to
21 participate in our process, as is clear in many laws and
22 regulations, including Sections 25506 and 25523 of the
23 Warren Alquist Act as well as Section 1744.5 and 1752.3 of
24 Title 20 of the California Code of Regulations, just to
25 name a few.

1 On the question of standing, Section 1714.5
2 subsection 2 expects agencies to perform -- this is
3 quoting, "perform or conduct such analyses or studies as
4 needed to resolve any significant concerns of the agency
5 or satisfy any remaining substantive requirements for the
6 issuance of a final permit by the agency which would have
7 jurisdiction but for the commission's exclusive
8 authority."

9 And 1714.5 subsection 2 allows agencies to,
10 quote, "present, explain, and defend in public hearings
11 held on applications for certification the results of the
12 agency's analyses, studies, or other review relevant to
13 the application. The agency may submit comments and
14 recommendations on any aspect of the application."

15 Section 1716(c) confers rights of discovery on,
16 quote, "any public agency which is not a party," and
17 Section 1716(g) gives non-party agencies the right to
18 petition the committee to compel discovery.

19 While section 1716.5 does not specifically
20 include agencies as parties and able to file motions or
21 petitions, Section 1717(a) does specifically include
22 agencies as entities who would, quote, "submit petitions,
23 motions, briefs, comments, written testimony or
24 exhibits."

25 Based upon the substantial interests of the air

1 district in this case, the committee finds that South
2 Coast Air Quality Management District does have standing
3 to bring their motion to disqualify Michael Harris because
4 they have the right to protect their privileged
5 communications with counsel; however, the committee agrees
6 with staff that Mr. Harris's testimony only relates to his
7 legal argument that AB 1318 is invalid unless and until
8 the amendment to this state implementation plan is
9 approved by the federal EPA.

10 The committee does not see anything that
11 resembles a confidential communication in the testimony of
12 Michael Harris, and therefore, the committee denies South
13 Coast's motion to disqualify Michael Harris without
14 prejudice to South Coast Air Quality Management District's
15 interposing objections and asserting their privilege in
16 the course of Mr. Harris's testimony if it appears he's
17 called upon to divulge confidential communications. In
18 other words, the committee will rule on those objections
19 as they arise while Mr. Harris testifies, and the motion
20 is denied.

21 So now having said that and being informed that
22 Mr. Harris isn't going to be here, is it my understanding
23 that the only testimony for Mr. Harris is going to be
24 submitted on the declaration?

25 MS. JOHNSON MESZAROS: It's my understanding

1 based upon the conversations that we had prior to today's
2 hearing, that all the parties agreed that there wouldn't
3 be live testimony offered as direct or cross, and so,
4 therefore, we did not request that Mr. Harris be here.
5 And his testimony would be limited to that that he's
6 provided in written form.

7 HEARING OFFICER CELLI: Thank you. And it's been
8 a long time, and I'm sorry I didn't remember that, but
9 without that, motion would be denied.

10 Is there any testimony that's going to be taken
11 live today? Is there any need for that?

12 Applicant?

13 MR. CARROLL: The only testimony, based on what's
14 transpired already this morning that I would expect to be
15 taken live would be the rebuttal of the supplemental May
16 declaration, which the committee has ruled upon.

17 HEARING OFFICER CELLI: Okay.

18 MR. CARROLL: So we didn't -- from applicant's
19 perspective, we did not intend to present any live
20 witnesses or cross-examine any witnesses today; but given
21 the committee's ruling on that issue, then we may have
22 some rebuttal testimony from, presumably, South Coast on
23 the May declaration.

24 HEARING OFFICER CELLI: Okay. Staff, does that
25 comport with your understanding? You're not going to be

1 calling any live witnesses today?

2 MR. RATLIFF: Could I confer with the district's
3 counsel on that?

4 HEARING OFFICER CELLI: Sure.

5 MR. RATLIFF: We have here the district's
6 witness, Mohsen Nazemi. Depending on the preference of
7 the committee, he can either rebut Ms. May's late-filed
8 testimony today, or we can seek two weeks to file an
9 additional piece of testimony from Mr. Nazemi which will
10 address the issues that her testimony raises.

11 HEARING OFFICER CELLI: Okay. Let's hear from
12 the other parties, and then we can make a decision on
13 that.

14 Ms. Johnson Meszaros.

15 MS. JOHNSON MESZAROS: As I believe that this is
16 a question about CBE's expert and how they want to
17 proceed, I'm not sure exactly how I can help move this
18 decision along.

19 HEARING OFFICER CELLI: Okay. We're just --
20 basically I'm trying to get a sense of how much of the day
21 do we need to spend taking testimony; and if you have no
22 witnesses present, then --

23 MS. JOHNSON MESZAROS: You know, I would have
24 been happy to have Mr. Harris be here today, but based on
25 our prior decision, he is not here today. So I don't

1 know --

2 HEARING OFFICER CELLI: Okay. That's fine.

3 And, Ms. Lazerow, is that pretty much the same
4 situation for CBE?

5 MS. LAZEROW: That's correct. I actually checked
6 my e-mail when I got back Saturday night and, you know,
7 sent a confirming e-mail to Ms. May, no, she didn't have
8 to be in Sacramento or available to testify today based on
9 our agreement on June 30th. The agreement actually came
10 about on July 1 before I left the country.

11 But I would just like to point out that to the
12 extent that Mr. Nazemi is going to be offering testimony
13 in rebuttal today, I don't know whether there will be yet
14 another opportunity for analysis or discussion of whatever
15 comes out of that.

16 HEARING OFFICER CELLI: We will set a briefing
17 schedule at the end of the hearing.

18 MS. LAZEROW: Excellent. Thank you.

19 HEARING OFFICER CELLI: So with that, I guess
20 what we'll do then is start with the applicant, and the
21 applicant can move in your evidence at this time.

22 MR. RATLIFF: Well, Mr. Celli, I need to make
23 sure, do you want Mr. Nazemi then to take his opportunity
24 today to rebut the late-filed testimony, or do you want us
25 to wait two weeks and then file written testimony?

1 HEARING OFFICER CELLI: One moment. We're going
2 to go off the record for a second.

3 (Recess.)

4 HEARING OFFICER CELLI: In response to staff's
5 question, what the committee would prefer is that
6 Mr. Nazemi testify today and give the parties an
7 opportunity to cross-examine Mr. Nazemi, and then we can
8 close the record on air quality today, and then we will
9 set up a briefing schedule.

10 So with that, applicant, you have --

11 MR. ROTHMAN: Mr. Celli, it's Rick Rothman. Can
12 I just ask for a clarification on your ruling with respect
13 to --

14 HEARING OFFICER CELLI: Is your green light on?
15 Is it not working?

16 HEARING OFFICER CELLI: You need to speak right
17 into these mics.

18 MR. ROTHMAN: I'll start eating the mic, if that
19 helps.

20 I'd like to get a clarification on the ruling
21 with respect to Michael Harris's testimony.

22 HEARING OFFICER CELLI: Yes.

23 MR. ROTHMAN: Is it my understanding that you are
24 accepting his testimony into the record?

25 HEARING OFFICER CELLI: Yes.

1 MR. ROTHMAN: In which case, I don't think that
2 the ruling which says that it is only legal argument
3 satisfies the district with respect to its concerns,
4 because it's not the case the district is concerned about
5 the legal argument that's presented, and had the lawyers
6 for CCAT or CBE made those arguments themselves, and they
7 can still make those arguments themselves, there would be
8 no objection.

9 The objection is to the allowing testimony by
10 Michael Harris into the record at all because of his
11 participation as district counsel in related matters. And
12 we will not be able to, you know, sit here quietly as that
13 moves in for fear of waiving our rights as a former client
14 of Mr. Harris's. So we would ask you to reconsider that.

15 We have no objection to having the intervenors
16 make the same legal arguments as much as they want, but we
17 would prefer it -- not prefer, we insist, actually, that
18 it not be from a former counsel. And it doesn't matter
19 that the testimony that he's proffered doesn't
20 specifically raise any specific confidential information.
21 The issue under the law is whether he was made aware of
22 confidential information or legal strategies of the
23 district that are substantially related to what he's
24 testifying to. And we assert that he did. And we
25 provided it in our papers. And we think that the legal

1 argument can go forward, we're not objecting to that, we
2 just don't think that it can go forward on the basis of
3 his testimony.

4 HEARING OFFICER CELLI: Understood. And I think
5 that that was quite clear in your legal brief. So the
6 committee considered those arguments, and ultimately
7 whether Michael Harris testifies or chooses to testify
8 is -- he does so at his own peril, and he does so -- and
9 South Coast has recourse, and that's between South Coast
10 and Mr. Harris, possibly the state bar, maybe even his E&O
11 carrier, but I believe that CCAT has the right to call
12 whoever they want as a witness, and if their witness
13 happens to have the potential for a conflict of interest,
14 that that witness testifies at his peril. But we stand by
15 the decision to allow them to move that testimony in,
16 we're going to allow them to do so. And the parties can
17 object at that time.

18 MR. ROTHMAN: Well, if it's only coming in on --

19 HEARING OFFICER CELLI: It's ruled, it's not
20 admissible, as a question of admissibility. So I think
21 it's clear then that the committee has denied the motion,
22 that we don't find that there's any attorney-client
23 privileged communications.

24 We understand what the concerns are of South
25 Coast, that they don't want former attorneys testifying,

1 but that's between South Coast and their former attorney.
2 And unless you can raise an objection, point to some
3 privileged information that violates some rule or law,
4 then we would be not inclined to exclude evidence.

5 MR. ROTHMAN: Well, explain to me how legal
6 argument is evidence in this matter. It's legal argument
7 that any of the lawyers can make.

8 HEARING OFFICER CELLI: That's right. It really
9 is. And we will give it whatever weight it deserves as it
10 goes to the ultimate question. All of these parties want
11 to make legal argument that goes to the ultimate question.
12 And they're all going to do that. And we will take
13 everyone's legal brief and give it the weight it deserves,
14 but we're not going to exclude that evidence.

15 MR. ROTHMAN: And just so that I'm clear, that
16 your ruling is that there's nothing in Mr. Harris's
17 testimony that you are considering as confidential
18 information.

19 HEARING OFFICER CELLI: Not that we see. And
20 South Coast has the right to raise that and point that out
21 and show us if there is some confidential communication in
22 there, but we --

23 MR. ROTHMAN: We're not saying that the legal
24 argument is confidential communication. We're not saying
25 that. We're saying it doesn't have to be to exclude a

1 witness. The witnesses can be excluded even if they
2 haven't presented testimony that reveals any client
3 confidences, because the policy to protect the confidences
4 and the legal strategies of the former client are such
5 that the law disfavors even the participation as a witness
6 against a former client on a related matter.

7 HEARING OFFICER CELLI: Right. That was in the
8 briefs, we understood that, that was clear, and the
9 committee didn't agree.

10 MR. ROTHMAN: Thank you.

11 HEARING OFFICER CELLI: With that, applicant,
12 there's a motion to introduce evidence?

13 MR. CARROLL: Yes. As previously indicated,
14 applicant will not be presenting any additional live
15 testimony today, so we will be proceeding on the
16 declarations previously filed and the exhibits identified
17 therein.

18 There are a number of exhibits identified on the
19 tentative exhibit list that I would move into evidence.
20 There are a couple that I'm going to hold until the end
21 because I have a question and I want to make sure that
22 we're in agreement on how those documents should be
23 handled. So I'll first move all of the exhibits for which
24 I believe there are no outstanding issues or questions.

25 So at this time applicant would move into the

1 evidentiary record applicant's exhibits number 7, 33, 34,
2 35, 36, 37, 38, 39, 62, 63, 92, 102, 138, 139, 140, 142,
3 143, 144, 146, 147, and 148.

4 HEARING OFFICER CELLI: Can I just some
5 clarification? You skipped 87, Exhibit 87. You inserted
6 Exhibit 102, which I don't have. What is Exhibit 102?

7 MR. CARROLL: Exhibit 102 is on the tentative
8 exhibit list. It was a previous declaration of John Lague
9 regarding air quality. That was submitted when the
10 initial declarations were submitted back in November of --
11 or, I'm sorry, October of 2008.

12 HEARING OFFICER CELLI: I see. I was looking at
13 this one.

14 Okay. So that's 102.

15 And then 141, you're withholding 87 and 141 for
16 the time being?

17 MR. CARROLL: Well, and perhaps this is -- well,
18 those are the two that I had questions about, so I don't
19 know if you want to deal with the ones I just identified
20 first and then we'll come back to those or if you want me
21 to indicate what my question was on those two now.

22 HEARING OFFICER CELLI: Well, let's take care of
23 your question.

24 MR. CARROLL: Okay. So the question is,
25 Exhibit 87, Applicant's Exhibit 87 is the final

1 determination of compliance prepared and submitted by the
2 South Coast AQMD.

3 Applicant's Exhibit 141 is the addendum to the
4 determination of compliance prepared and filed by the
5 South Coast AQMD. As the committee knows, sometimes the
6 air district documents are sponsored by the applicant,
7 sometimes they're sponsored by the CEC staff, sometimes
8 they're sponsored by the air district itself. We had
9 identified these exhibits on our exhibit list just to make
10 sure that they were on someone's exhibit list.

11 As this matter has unfolded, we obviously have
12 South Coast here, so it wasn't clear to me whether
13 applicant should be sponsoring those two documents or
14 whether South Coast or the CEC should be sponsoring those
15 two documents. We're happy to do it, but I just wanted to
16 make sure that was clear.

17 HEARING OFFICER CELLI: You might as well. You
18 have the burden.

19 MR. CARROLL: Okay. Then we would also move
20 Applicant's Exhibit 87 and Applicant Exhibit 141.

21 HEARING OFFICER CELLI: Okay. Is there any
22 objection to exhibits -- the exhibits listed by the
23 applicant just now. And if you want me to I'll read the
24 list to you.

25 Mr. Ratliff?

1 MR. RATLIFF: No.

2 HEARING OFFICER CELLI: Any objection,
3 Ms. Johnson Meszaros?

4 MS. JOHNSON MESZAROS: No objection.

5 HEARING OFFICER CELLI: Any objection,
6 Ms. Lazerow?

7 MS. LAZEROW: No objection.

8 HEARING OFFICER CELLI: Thank you. With that,
9 then --

10 MR. CARROLL: Mr. Celli --

11 HEARING OFFICER CELLI: Yes.

12 MR. CARROLL: I'm sorry. A follow up.

13 Since the applicant has now sponsored those first
14 two South Coast documents, there are two additional
15 documents that have been filed by South Coast or in that
16 series that did not appear on the tentative exhibit list,
17 and perhaps this would be the appropriate time to deal
18 with those.

19 They would be the May 12th, 2010, revision to the
20 addendum to the determination of compliance which was
21 docketed on May 12th, 2010. And then a minor correction
22 to the determination of compliance, which was filed by
23 South Coast on July 15th, 2010.

24 And again, it may be that CEC staff or
25 South Coast is planning to identify these, but since we

1 were dealing with South Coast documents, I just wanted to
2 bring these to the committee's attention as well.

3 HEARING OFFICER CELLI: So Exhibit 149 is a
4 5/12/10 revision to the addendum, which would have been
5 Exhibit 141. And then Exhibit 150 is a minor correction
6 filed -- I'm sorry, what date was that filed?

7 MR. CARROLL: July 15th.

8 HEARING OFFICER CELLI: 7/15. Is there
9 anything -- it doesn't have a title. Is it entitled
10 "minor correction" or --

11 MR. CARROLL: It is -- the cover letter reads,
12 "Enclosed is the original letter addressing a minor
13 correction to the 30-day average daily emission
14 calculations for the CPV Sentinel for post power plant
15 project."

16 HEARING OFFICER CELLI: And then what's attached
17 to it?

18 MR. CARROLL: Attached to it is a July 15th
19 letter from Mr. Mohsen Nazemi at South Coast AQMD to the
20 California Energy Commission docket. In brief, the minor
21 correction to increase the offset obligation of the
22 project. So presumably not controversial from anybody's
23 viewpoint other than the applicant.

24 HEARING OFFICER CELLI: So the date of the letter
25 of Mr. Nazemi --

1 MR. CARROLL: Is July 15th as well.

2 HEARING OFFICER CELLI: So both the cover letter
3 and the -- and the letter from Mohsen Nazemi are 7/15/10.

4 MR. CARROLL: Correct.

5 (Applicant's Exhibits 149 and 150 were
6 marked for identification.)

7 HEARING OFFICER CELLI: Thank you.

8 Any objection to 149 -- well, any objection to
9 the additional -- Exhibits 149 and 150 marked for
10 identification?

11 Mr. Ratliff?

12 MR. RATLIFF: No.

13 HEARING OFFICER CELLI: Okay. Any objection to
14 the additional two, exhibits 149 and Exhibit 150,
15 Ms. Johnson Meszaros?

16 MS. JOHNSON MESZAROS: No objection.

17 HEARING OFFICER CELLI: Ms. Lazerow, any
18 objection?

19 MS. LAZEROW: None.

20 HEARING OFFICER CELLI: Okay, with that then the
21 committee will receive into evidence exhibits marked for
22 identification 7, 33, 34, 35, 36, 37, 38, 39, 62, 63, 87,
23 92, 102, 138, 139, 140, 141, 142, 143, 144, 146, 147, 148,
24 149, 150 are all received into evidence.

25 ///

1 (Applicant's Exhibits 7, 33, 34, 35, 36, 37, 38,
2 39, 62, 63, 87, 92, 102, 138, 139, 140, 141, 142,
3 143, 144, 146, 147, 148, 149, and 150 were
4 received into evidence.)

5 MR. CARROLL: Mr. Celli?

6 HEARING OFFICER CELLI: Yes.

7 MR. CARROLL: I have a couple of additional items
8 that I'd like to address if now is appropriate --

9 HEARING OFFICER CELLI: Please.

10 MR. CARROLL: -- related to exhibits.

11 There is an exhibit that was identified in
12 Ms. May's declaration. It is the information that was
13 provided pursuant to the California Public Records Act
14 request filed with the South Coast AQMD by the intervenors
15 in these proceedings. That information was docketed by
16 the applicant.

17 I need some clarification -- applicant would like
18 to see that the entirety of that document be moved into
19 the record. As I said, it's been identified by intervenor
20 CBE, but it wasn't clear to me whether they were
21 identifying the entirety of the document or only portions
22 referenced in Ms. May's declaration. If they're moving
23 the entirety of the document, then we're fine; if not,
24 then we would want the remainder of the document to be
25 moved as well.

1 HEARING OFFICER CELLI: I'm looking at CBE's
2 tentative exhibit list. It's got Exhibits 400 through
3 403. Which are we talking about? 402?

4 MS. LAZEROW: I believe they're denominated as
5 Exhibits 400 and 402. And to the extent that it
6 references various portions of the responses to the Public
7 Records Act request, Ms. May was simply providing the
8 portions on which she was relying in her analysis, not the
9 entire response to the Public Records Act request; and
10 that was done on the assumption that the applicant or the
11 staff would, in fact, be moving the entire thing into the
12 record. And these were provided as basically as a tool to
13 the commission in its analysis, that, you know, the
14 specific 40 pages on which she was relying --

15 HEARING OFFICER CELLI: Thank you.

16 MS. LAZEROW: -- of any given document.

17 MR. CARROLL: In light of that, then applicant
18 would request that the entirety of the document, which was
19 docketed on June 11th, 2010, be identified Applicant's
20 Exhibit 151 and moved into evidence.

21 HEARING OFFICER CELLI: What specifically is the
22 title of the document? 6/10. And Exhibit 151?

23 MR. CARROLL: The title of the document, which
24 appears on the disc that was filed is "South Coast AQMD
25 Emission Reduction Credit Documents Produced per CPRA

1 requests 61990 and 61991."

2 HEARING OFFICER CELLI: Is that that disc I
3 received with like --

4 MR. CARROLL: Yes.

5 HEARING OFFICER CELLI: -- with like a million
6 pages in it?

7 MR. CARROLL: Yes.

8 HEARING OFFICER CELLI: I wonder if we could get
9 some sort of focus on to what exactly you want in that
10 record. I mean, maybe when we get to briefs you can do
11 that.

12 MR. CARROLL: We'll be happy to do that in
13 briefs.

14 HEARING OFFICER CELLI: Okay. So any objection
15 to -- so it's called the June 10th South Coast Air Quality
16 Management District Emissions Reductions Credits, Response
17 to Public Records Act Request. Is that what it's called?

18 MR. CARROLL: Yes. It's California Public
19 Records Act -- response to California Public Records Act
20 request 61990 and 61991.

21 HEARING OFFICER CELLI: Any objection from staff?

22 MR. RATLIFF: No.

23 HEARING OFFICER CELLI: Any objection from CCAT?

24 MS. JOHNSON MESZAROS: I don't have an objection,
25 but just for clarity, I believe that the entire -- that

1 the applicant submitted the entire Public Records Act
2 request response into the record; is that correct?

3 MR. CARROLL: Yes.

4 MS. JOHNSON MESZAROS: And the portion in
5 Ms. May's testimony is a subset of that has already been
6 entirely submitted into the record.

7 MR. CARROLL: Correct.

8 MS. JOHNSON MESZAROS: And so what you're asking
9 for is for the exhibit list to acknowledge that the entire
10 document out of which the excerpts were pulled is part of
11 the record.

12 MR. CARROLL: Correct.

13 MS. JOHNSON MESZAROS: Okay. So, no, I don't
14 have an objection to that.

15 HEARING OFFICER CELLI: Any objection CBE?

16 MS. LAZEROW: None.

17 HEARING OFFICER CELLI: Okay. Well, certainly
18 I've got concerns about it just because it's such an
19 overwhelming amount of information so that even when we
20 get to briefs we're going to need to be guided as to what
21 it is in there that you want us to look at.

22 MS. JOHNSON MESZAROS: Mr. Celli, I'll just add
23 that the reason Ms. May attached those subsections was to
24 provide focus instead of having to go through all the
25 documents, so those were the exceptions on which she

1 relied, and so she attached those for clarity, but it
2 wasn't meant to be duplicative or --

3 HEARING OFFICER CELLI: I understand that, and we
4 do appreciate that.

5 With that motion, Exhibit 151 marked for
6 identification will be received into evidence as
7 Exhibit 151.

8 (Applicant's Exhibit 151 was marked for
9 identification and received into evidence.)

10 MR. CARROLL: Thank you.

11 And I have one final matter. In light of the
12 committee's ruling this morning on the South Coast AQMD's
13 motion to exclude the declaration of Michael Harris, we
14 would ask that applicant's rebuttal to the declaration of
15 Michael Harris docketed on June 30th, 2010, be identified
16 as applicant's Exhibit 152 and would move that into
17 evidence as well.

18 HEARING OFFICER CELLI: Any objection from staff?

19 MR. RATLIFF: No.

20 HEARING OFFICER CELLI: Any objection from CCAT?

21 MS. JOHNSON MESZAROS: No objection.

22 HEARING OFFICER CELLI: Any objection from CBE?

23 MS. LAZEROW: No objection.

24 HEARING OFFICER CELLI: And the title of the
25 document was "Applicant's Rebuttal to --"

1 MR. CARROLL: "-- to the Declaration of Michael
2 Harris." And that was docketed on June 30th, 2010.

3 HEARING OFFICER CELLI: Was that a declaration
4 signed by anyone?

5 MR. CARROLL: No, it was not. It was legal
6 argument submitted on behalf of counsel.

7 MS. JOHNSON MESZAROS: We believe it was a
8 declaration signed by Michael Harris.

9 MR. CARROLL: No, I think he meant for rebuttal.

10 MS. JOHNSON MESZAROS: Oh, okay, sorry.

11 HEARING OFFICER CELLI: That was filed on what
12 date?

13 MR. CARROLL: June 30th, 2010.

14 HEARING OFFICER CELLI: Thank you.

15 There being no objection then, Exhibit 152 marked
16 for identification, "Applicant's Rebuttal to the
17 Declaration of Michael Harris" filed on June 30th, 2010,
18 will be received into evidence as Exhibit 152.

19 (Applicant's Exhibit 152 was marked for
20 identification and received into evidence.)

21 MR. CARROLL: That concludes all of the
22 applicant's exhibits. Thank you.

23 HEARING OFFICER CELLI: Thank you.

24 Staff, do you have a motion as to staff's
25 exhibits?

1 MR. RATLIFF: Yes. It appears that all of the
2 exhibits that we filed for the air quality portion of this
3 proceeding other than the original addendum that was filed
4 in 2008 -- oh, I'm sorry. It appears that all of our
5 filings that have been made in the last few months have
6 not been marked as exhibits. And I'll begin with the
7 April 15th, 2010, final staff assessment air quality
8 addendum.

9 HEARING OFFICER CELLI: Do you have an exhibit
10 list?

11 MR. RATLIFF: I don't.

12 HEARING OFFICER CELLI: Okay.

13 MR. RATLIFF: I mean, I have your exhibit list,
14 but --

15 HEARING OFFICER CELLI: Right. And I saw that
16 your new exhibits from staff on air quality were omitted.
17 So I basically -- how many exhibits do you --

18 MR. RATLIFF: Four.

19 HEARING OFFICER CELLI: Oh, okay. Well, staff,
20 and we're starting with what number?

21 MR. RATLIFF: This would be -- you've marked
22 through Exhibit 213. And I believe all those have been
23 admitted previously.

24 HEARING OFFICER CELLI: Okay. So 214 is what?

25 MR. RATLIFF: It's the final staff assessment

1 addendum. Also marked as a staff report.

2 HEARING OFFICER CELLI: And that was filed --

3 MR. RATLIFF: Filed April 15th, 2010.

4 HEARING OFFICER CELLI: Okay. Exhibit 215?

5 MR. RATLIFF: Exhibit 215 would be the errata to
6 the final staff assessment air quality addendum.

7 HEARING OFFICER CELLI: And that was filed on
8 what date?

9 MR. RATLIFF: May 6th, 2010.

10 HEARING OFFICER CELLI: Okay. And 216?

11 MR. RATLIFF: 216 would be the errata number two
12 to the final staff assessment air quality addendum filed
13 on May 19th, 2010.

14 HEARING OFFICER CELLI: That's right, I remember,
15 actually, I was looking at your filings, and I saw that
16 there was a errata number two.

17 MR. RATLIFF: Right.

18 HEARING OFFICER CELLI: Is the errata -- the
19 first errata, does it actually say number one on it or
20 just as errata?

21 MR. RATLIFF: It just says errata.

22 HEARING OFFICER CELLI: Okay. Go ahead. So
23 we're at 217.

24 MR. RATLIFF: And then 217 would be the rebuttal
25 testimony filed by Mr. Steve Radis on June 30th, 2010.

1 HEARING OFFICER CELLI: June 30th.

2 MR. RATLIFF: It's titled "Rebuttal Testimony
3 Regarding Air Quality Emission Reduction Offsets."

4 HEARING OFFICER CELLI: Is there anything further
5 from staff?

6 MR. RATLIFF: No.

7 HEARING OFFICER CELLI: Any objection from CCAT
8 to Exhibits 214 through 217?

9 MS. JOHNSON MESZAROS: No objection.

10 HEARING OFFICER CELLI: Any objection by CBE?

11 MS. LAZEROW: No.

12 HEARING OFFICER CELLI: Any objection by
13 applicant?

14 MR. CARROLL: No.

15 HEARING OFFICER CELLI: Okay. With that,
16 Exhibits 214, 215, 216, 217 marked for identification will
17 be received into evidence as 214, 215, 216, and 217.

18 (Staff's Exhibits 214 through 217 were marked for
19 identification and received into evidence.)

20 HEARING OFFICER CELLI: Anything further from
21 staff?

22 MR. RATLIFF: No.

23 HEARING OFFICER CELLI: Thank you.

24 Next we go to CCAT. I only have one exhibit from
25 CCAT, which is Exhibit 300, the expert testimony of

1 Michael Harris. Was there anything else?

2 MS. JOHNSON MESZAROS: No, that would be all.

3 HEARING OFFICER CELLI: So are you moving
4 Exhibit 300 for identification into evidence?

5 MS. JOHNSON MESZAROS: Yes, we are moving
6 Exhibit 300 into the evidence.

7 HEARING OFFICER CELLI: Any objection from CBE to
8 Exhibit 300?

9 MS. LAZEROW: None.

10 HEARING OFFICER CELLI: Any objection by
11 applicant to Exhibit 300?

12 MR. CARROLL: No.

13 HEARING OFFICER CELLI: Any objection by staff to
14 Exhibit 300?

15 MR. RATLIFF: Well, staff and the air district
16 did object, and actually our objection was more that this
17 is legal argument. And I think the committee has agreed
18 with that, but it allowed this to be entered as evidence.
19 We won't reargue the point.

20 HEARING OFFICER CELLI: Thank you.

21 With that then, the objection is overruled and
22 Exhibit 300 will be received into evidence.

23 (Intervenor's Exhibit 300 was received into
24 evidence.)

25 HEARING OFFICER CELLI: Anything further from

1 CCAT?

2 MS. JOHNSON MESZAROS: Just for a point of
3 clarification on the exhibit list. Exhibit list number
4 137 and 145 on the applicant's list are blank, and so I
5 just wanted to be sure that those are actually meant to be
6 blank.

7 MR. CARROLL: Yes, those were intentionally
8 omitted.

9 MS. JOHNSON MESZAROS: Thank you.

10 HEARING OFFICER CELLI: Thanks for pointing that
11 out.

12 With that now we're on to Intervenor Communities
13 for a Better Environment. And I show that you have
14 submitted exhibits marked for identification as 400
15 through 403.

16 MS. LAZEROW: That's correct.

17 MS. BAIRD: Excuse me, Hearing Officer. For the
18 record we'd like to reiterate our objection so as to be
19 sure that there's no waiver involved with the Exhibit 300,
20 Mr. Harris.

21 HEARING OFFICER CELLI: Noted. And it is clear
22 that South Coast has not waived any objection to
23 Michael Harris's testimony.

24 So back to you, Ms. Lazerow; just 400 through
25 403?

1 MS. LAZEROW: That's correct.

2 HEARING OFFICER CELLI: Thank you.

3 Any objection by applicant?

4 MR. CARROLL: Yes. Applicant continues to object
5 to Exhibits 402 and 403, but we've been overruled on that
6 objection already today.

7 HEARING OFFICER CELLI: And nothing new to add.

8 Well, I see, 402 are the -- just to make the
9 record clear, the declaration is 403, and the attached to
10 the declaration were the documents now marked as
11 Exhibit 402.

12 HEARING OFFICER CELLI: So I was not actually
13 aware that there was an objection to 402. It is a
14 conglomeration of publicly available documents and
15 excerpts from the response to the Public Records Act --

16 HEARING OFFICER CELLI: The objection was
17 untimeliness.

18 MR. CARROLL: Well, am I correct that -- let me
19 make sure that I am correct in my understanding.

20 Exhibit 402 consists of the attachments to
21 Exhibit 403?

22 HEARING OFFICER CELLI: Correct.

23 MR. CARROLL: Well, our objection was to the
24 filing of the entirety of the package, but the declaration
25 and the exhibits supporting the declaration, so it was to

1 both Exhibits 402 and 403.

2 HEARING OFFICER CELLI: Okay. Staff, any
3 objection to Exhibits 400 through 403?

4 MR. RATLIFF: Well, we had a similar objection,
5 but I think it's already been answered by allowing
6 Mr. Nazemi to testify to that today.

7 HEARING OFFICER CELLI: Ms. Johnson Meszaros?

8 MS. JOHNSON MESZAROS: No objection.

9 HEARING OFFICER CELLI: Okay. Then the objection
10 would be overruled, and over the objection of the
11 applicant and staff and South Coast, Exhibits 400 through
12 401 -- I'm sorry, 400, 401, 402, 403 marked for
13 identification will be received into evidence as exhibits
14 400 through 403.

15 (Intervenor's Exhibits 400 through 403 were
16 received into evidence.)

17 HEARING OFFICER CELLI: That takes care of all of
18 the evidence then with regard to air quality except
19 rebuttal evidence at this time.

20 So with that, applicant, do you have any rebuttal
21 evidence that you wanted to put into the record?

22 MR. CARROLL: We do not at this time, but we
23 would like to reserve the opportunity to ask questions of
24 Mr. Nazemi following rebuttal testimony presented by the
25 CEC and South Coast.

1 HEARING OFFICER CELLI: That's -- actually, since
2 you're the applicant, the burden is with the applicant,
3 the applicant gets the last word, so you will have the
4 opportunity to do that.

5 Staff, any rebuttal testimony?

6 MR. RATLIFF: You've already marked and admitted
7 the staff rebuttal testimony from June 30th. And the
8 other testimony is that that remains to be given by
9 Mr. Nazemi.

10 HEARING OFFICER CELLI: Okay. And you will be --
11 staff will be calling Mr. Nazemi?

12 MR. RATLIFF: Yes.

13 HEARING OFFICER CELLI: Okay. Any other
14 witnesses besides Mr. Nazemi?

15 MR. RATLIFF: We have Mr. Radis also on the line.
16 He may wish to comment as well on the late-filed testimony
17 of Ms. May.

18 HEARING OFFICER CELLI: Okay. Let me just get
19 into WebEx here.

20 Mr. Radis, are you still on the line?

21 MR. RADIS: I'm still here.

22 HEARING OFFICER CELLI: Good. We can hear you
23 loud and clear.

24 MR. RADIS: Great.

25 HEARING OFFICER CELLI: With that then, staff,

1 call your first witness, please.

2 MR. RATLIFF: Call Mr. Nazemi at this time.

3 And I would like to give Ms. Baird the
4 opportunity to direct Mr. Nazemi if that's acceptable.
5 This is -- it's not uncommon to allow the air districts to
6 participate if they choose to do so directly, and if
7 Ms. Baird chooses to do so, I would like her to go ahead
8 and do the direct examination of Mr. Nazemi.

9 HEARING OFFICER CELLI: That's fine with the
10 committee.

11 Is there any objection by either intervenor CCAT
12 or CBE to Ms. Baird conducting the examination?

13 MS. LAZEROW: CBE has no objection.

14 HEARING OFFICER CELLI: And CCAT?

15 MS. JOHNSON MESZAROS: No objection.

16 HEARING OFFICER CELLI: Okay. Applicant, no
17 objection?

18 MR. CARROLL: No.

19 HEARING OFFICER CELLI: Thank you. You may
20 proceed.

21 Actually, Mr. Nazemi's going to need a dedicated
22 microphone. So I think I'm going to put you at the
23 podium, Mr. Nazemi, and this way everybody has a
24 microphone. Just make sure that the little green light is
25 on and you speak directly into the mic if you will.

1 (Mohsen Nazemi was sworn.)

2 HEARING OFFICER CELLI: Please state your name
3 and spell it for the record.

4 MR. NAZEMI: My name is Mohsen Nazemi,
5 M-o-h-s-e-n N-a-z-e-m-i.

6 HEARING OFFICER CELLI: Thank you. You may
7 proceed, Ms. Baird.

8 MS. BAIRD: Thank you, Hearing Office Celli.

9 DIRECT EXAMINATION

10 MS. BAIRD: Mr. Nazemi, you have read the
11 supplemental expert declaration of Julia May dated
12 June 30th, 2010; is that correct?

13 MR. NAZEMI: That is correct.

14 MS. BAIRD: And in that declaration Ms. May makes
15 specific comments about certain identified facilities, and
16 I will ask you to comment on those identified facilities
17 and then at the end to discuss her general objection that
18 she makes to a number of facilities.

19 First, she identifies a facility called Statewide
20 Sandblasting. Can you summarize for us what her concern
21 was with the calculation for that facility and what your
22 response is?

23 MR. NAZEMI: Sure. Ms. May's June 30th
24 declaration raises a number of questions regarding
25 Statewide as well as four or five other facilities. And

1 the main argument that she raises about these
2 sandblasting, cement aggregate and other facilities is
3 that the PM 10 factors from these facilities do not
4 represent BACT.

5 I believe that the district in my earlier
6 declaration rebuttal to Ms. May's June 15 declaration and
7 in our legal arguments have presented that there are no
8 requirements to adjust emissions to BACT, or best
9 available control technology, also known as BACT; however,
10 going straight to that, the case with respect to Statewide
11 Sandblasting, Ms. May argues that the emission factors
12 used by the district, which represents the annual emission
13 report filed by Statewide Sandblasting, represented
14 numbers in terms of pounds per thousand pound of abrasive
15 material that ranged in the 16.5 to 33.5. And she argues
16 that the correct number to use is 1.38 pound per thousand
17 ton of throughput.

18 And in her declaration the rebuttal, or updated
19 declaration, Ms. May specifically indicates that the AP 42
20 metal sandblasting emission factors published in 1997
21 lists abrasive blasting of unspecified metal parts
22 controlled with a fabric filter at 0.69 pounds total PM
23 per thousand pound abrasive blasting. This is on bottom
24 of page 2 of her declaration.

25 And then she goes on to the top of page 3

1 indicating that as a result, that factor to be used is
2 1.38 pounds of PM per ton of throughput.

3 Ms. May completely misrepresents this source of
4 offset. This source of offset is open abrasive blasting.
5 For open abrasive blasting, the emission factors that are
6 provided in our annual emission reports for utilizing sand
7 as the abrasive material is 33 -- I'm sorry, is 41 pounds
8 per ton controlled and for slag is 10 pounds per ton
9 controlled. The control method for open sandblasting is
10 wet sandblasting. You don't put a building inside a
11 fabric filtered cabinet to sandblast; this is called open
12 sandblasting.

13 In the case of Statewide, they used 33.5 instead
14 of 41, so they actually used a lower emission factor for
15 sandblasting; however for slag, they used 16.5 instead of
16 10, which was a higher number.

17 In 2002, the district audited this facility and
18 required them to adjust the emission factors that they
19 used to what we believe is the correct emission factors,
20 where overall it turned out that they had under-reported
21 their emissions and, therefore, they were required to
22 adjust their emissions to a higher number. Therefore, the
23 number that we chose to use here was actually
24 conservative. We used the overall lower number, that even
25 though they used the wrong emission factors.

1 However, nevertheless, in order to be super
2 conservative, the district went back and decided that what
3 would happen if we changed the emission factor for slag
4 from 16.5 to 10, and the result in emission reductions for
5 Statewide Sandblasting would be 108 pounds for each open
6 abrasive blasting unit for a total of 219 pounds. And the
7 district will make that surplus adjustment in order to
8 address the higher emission factor used for slag.

9 MS. BAIRD: And with respect to all of these
10 direct emitters of particulate matter, Ms. May raises an
11 objection that the district has used a ratio of 50 percent
12 PM 10 to total PM. Is that a correct ratio to use, and if
13 so, why?

14 MR. NAZEMI: The answer is yes, it is a correct
15 and probably conservative ratio to use. I have addressed
16 the 50 percent PM 10 to PM ratio in my June 30th
17 declaration in detail. And in a nutshell, what the
18 response to that is that when we looked at all
19 non-combustion industrial sources, the actual PM 10 to PM
20 ratio was 58 percent or greater.

21 And when we look at individual non-combustion
22 industrial sources for all except food and aggregate, the
23 numbers were over 50 percent -- I'm sorry, did I say food
24 and aggregate? I have to look at my declaration. It was
25 the food and -- sorry, takes me a minute to find it.

1 The ratio for various -- it's on page 9 of my
2 June 30th declaration, question 13. In response to
3 question 13 I've indicated that --

4 HEARING OFFICER CELLI: Before you answer that,
5 let me just be -- I want to be sure I'm on the right --
6 what was the exhibit number for Mr. Nazemi's testimony
7 that he's referring to right now? Page 9 -- I just want
8 to be able -- so page 9 of exhibit, whatever exhibit
9 number. That was Mr. Nazemi's rebuttal testimony. I have
10 Steve Radis's rebuttal from staff. I don't have
11 Mr. Nazemi's rebuttal.

12 MS. BAIRD: This was filed on June 30th, and
13 perhaps we neglected to make it an exhibit number. I have
14 a copy here if it -- it was docketed, I believe.

15 MS. JOHNSON MESZAROS: It's not an exhibit.

16 HEARING OFFICER CELLI: Right. Maybe we need to
17 make it an exhibit.

18 MS. JOHNSON MESZAROS: The district isn't a
19 party.

20 HEARING OFFICER CELLI: So I think staff would
21 end up having to move it in.

22 MS. JOHNSON MESZAROS: Yes. And so then there's
23 an additional question about rebuttal testimony, because
24 now they've got late-filed testimony that came in on
25 June 30th that we've never seen before.

1 MS. BAIRD: Well, but that's not correct. We
2 served all the parties -- well, on June 30th.

3 HEARING OFFICER CELLI: Right. So whatever was
4 served on all the parties, I'm sure that -- I know I've
5 seen this and we've received it and it was on the -- on
6 the POS, so everybody got it on June 30th, I just didn't
7 know whether it had been moved into evidence. If not, it
8 should be; it's part of the record.

9 MR. RATLIFF: It was served on June 30th, and it
10 was POS-ed directly by the district on that date.

11 MS. JOHNSON MESZAROS: It was -- it was -- I
12 don't mean to suggest, although I know I said -- I don't
13 mean to suggest we didn't get a copy of it, but there's an
14 overarching question about how the district is submitting
15 information, whether this is coming in as evidence, is it
16 rebuttal testimony, is it something that we reply to or
17 don't reply to. How does -- how does this process work,
18 June 30th as the day that it shows up?

19 MR. CARROLL: Well, if I may, I can answer those
20 questions very simply.

21 It is rebuttal testimony, and June 30th was the
22 date for filing rebuttal testimony; so the only
23 inadvertence here is that these -- this document wasn't
24 identified when we were going through the list of exhibits
25 and it's now been drawn to our attention.

1 HEARING OFFICER CELLI: And the committee's
2 interested in this. We've read it already, we've received
3 it, we might as well put it into the -- mark it.

4 MS. JOHNSON MESZAROS: So its status is that it's
5 applicant's rebuttal testimony?

6 HEARING OFFICER CELLI: I don't think so. I
7 think --

8 MR. RATLIFF: It's being sponsored by staff. It
9 was provided by the air district on the date that rebuttal
10 testimony was due.

11 HEARING OFFICER CELLI: So we're now up to 218
12 for staff's exhibit numbers. Is there a motion with
13 regard to Exhibit -- marked for identification as
14 Exhibit 218?

15 MR. RATLIFF: Yes. And that would be the
16 rebuttal expert declaration of Mohsen Nazemi regarding
17 emission offset credits filed June 30th, 2010.

18 HEARING OFFICER CELLI: Any objection from CCAT?

19 MS. JOHNSON MESZAROS: Nothing other than what
20 I've already indicated.

21 HEARING OFFICER CELLI: CBE?

22 MS. LAZEROW: None.

23 HEARING OFFICER CELLI: No objection.
24 Applicant?

25 MR. CARROLL: No.

1 HEARING OFFICER CELLI: Okay. Over objection, so
2 the objection would be overruled.

3 Exhibit 218 will be received into evidence as
4 Exhibit 218.

5 (Staff's Exhibit 218 was received into evidence.)

6 HEARING OFFICER CELLI: And now -- I'm sorry to
7 interrupt you -- now, let's keep the continuity.

8 You were talking about page 9 of Exhibit 218, and
9 if you can refer to your rebuttal testimony as 218 from
10 here on out, then it will be easier for me to understand
11 what's going on with the transcript. I'm sorry, go ahead.
12 This was staff's direct.

13 MR. NAZEMI: On the bottom of page 9 of my
14 rebuttal declaration, I indicate that the average overall
15 PM 10 to PM ratio is actually 58 percent or greater. And
16 the range is from 33 percent to actually 100 percent. And
17 the only industrial process that falls below 50 percent is
18 food and agriculture. Therefore, I believe the ratio that
19 was used in these cases are actually conservative, rather
20 than overestimation.

21 MS. BAIRD: Thank you. And now, directing your
22 attention to Ms. May's comments regarding Gateway
23 Sandblasting, does she make any comments other than those
24 that were already addressed regarding the PM ratio and in
25 the Statewide Sandblasting?

1 MR. NAZEMI: No. I believe I responded to that.
2 Again, this is open abrasive blasting, and she claims that
3 the emission factor for a fabric filter cabinet should be
4 used, which is incorrect.

5 MS. BAIRD: And directing your attention to the
6 facility Elsinore Ready Mix, can you explain the comment
7 that Ms. May has regarding this facility and your
8 response?

9 MR. NAZEMI: On page 3 of Ms. May's June 30th
10 declaration, she refers to, under item 8, that Elsinore
11 Ready Mix used a factor of ten pounds per ton of
12 throughput, and that she argues that the documents that
13 are actually in district's database recommend that the
14 ratios should be anywhere, from what she's listed on top
15 of page 4, with the highest being .056 pounds per ton.

16 In this case Ms. May is mistaken, particularly
17 because she's reading the emission factors incorrectly.
18 The emission factor is not ten pounds per ton, but rather
19 ten pounds per thousand tons. And therefore, if you
20 convert that to pound per ton, the ratio, the emission
21 factor that was used for this facility was .01 pounds per
22 ton. And Ms. May's range of emission factor is -- clearly
23 this factor falls way below the suggested when she used
24 .0568.

25 In addition, the district has taken a closer look

1 at the Elsinore emissions in order to ensure that the
2 emissions reported are not in excess of any part
3 adjustment; and as a result of the subsequent review, what
4 Ms. May has also misunderstood is she has looked at
5 individual process unit emission factors for this type of
6 facility and kind of picked and choosed which one should
7 be applied here.

8 What she doesn't translate in her declaration is
9 that when you deal with a ready mix aggregate-type
10 facility, the throughput goes through many processes, and
11 at each point one of those emission factors applies. So
12 when you try to get the total emissions from the facility,
13 you combine and add those emission factors like a transfer
14 point, every time material goes to a transfer point that's
15 the emission that comes from that particular transfer
16 point.

17 So when you're looking at the total facility
18 emissions, all those emission factors, some of them
19 numerous times are added together to calculate the
20 composite emission factor.

21 What Elsinore did in their annual emission
22 report, they reported a composite emission factor that was
23 utilized in this case. And the district went back and
24 looked at ten pounds per thousand ton composite emission
25 factor and recalculated what would be the composite

1 emission factor using all the controlled emissions that
2 Ms. May had suggested to use. And we recalculated that;
3 we came up with a composite emission factor of 9.68 pounds
4 per thousand tons instead of 10. So the district would
5 make a surplus adjustment in the case of Elsinore of 42
6 pounds per day of PM 10.

7 MS. BAIRD: And the final facility that is
8 discussed that is a sand and aggregate handling is
9 Chandler Aggregates. Can you tell us what comment Ms. May
10 had regarding that facility and what is your response?

11 MR. NAZEMI: If I can find Ms. May's --

12 MS. BAIRD: It's on --

13 MR. NAZEMI: Oh, here it is, okay. Sorry.

14 Yes, Ms. May in her June 30th, 2010, supplemental
15 declaration, or updated declaration, bottom of page 4 she
16 makes an argument that again the emission factor used for
17 this facility was 11.87 pounds per thousand tons, and she
18 argues that the various emission factors ranged from
19 numbers that she's listed at the bottom of that page, and
20 then she's recommending that the highest of these is 8.3
21 pounds per thousand tons, in which case, if they use that,
22 the emissions would have been reduced by a certain
23 percentage.

24 Once again, Ms. May is misrepresenting how the
25 composite emission factor is used in the case of Chandler

1 Aggregates. The district -- she also lists a range of
2 emission factors on the bottom of page 4 from district's
3 documents that she argues it's between 0.12 to 8.3 pounds
4 per thousand ton.

5 Actually, the list of emission factors that's on
6 district's annual emission report for asphalt, cement,
7 concrete aggregate plant ranges from 0.12. So her lower
8 range is correct, but that range goes as high as 16.5
9 pounds per thousand tons, twice as much as she's
10 indicated. And the facility used 11.87.

11 So the district again in this case went back and
12 pulled all the records and recalculated Chandler's
13 composite emission factor to determine what that number
14 would look like.

15 When the district recalculated the composite
16 emission factors, we determined that the actual emission
17 factor for this facility was 12.52, and the facility used
18 11.87. Therefore, if anything, they under-reported their
19 emissions by a small percentage. And the district is not
20 adjusting it to the correct number, we're leaving it as
21 indicated in my June 30th declaration to be more
22 conservative.

23 MS. BAIRD: Mr. Nazemi, several times you've
24 mentioned that the district has performed a surplus
25 adjustment for various of these facilities. Can you

1 explain what a surplus adjustment is?

2 MR. NAZEMI: Absolutely. Again, going back to
3 Ms. May's arguments that the district should adjust these
4 credits to BACT, best available control technology, that
5 argument is flawed, and there is no requirement that this
6 be done. However, there is a requirement that any
7 emission credits that are granted not be required by any
8 other federal, state, or local rules or regulation.

9 And when I refer to surplus adjustment, I'm
10 referring to going back and adjusting any of these credits
11 reported in the AB 1318 tracking system for Sentinel to
12 what would be required under federal, state, or local
13 rules and regulations.

14 MS. BAIRD: When you perform that surplus
15 adjustment, what was the effect on the amount of PM and
16 SOX credits available for the 1318 tracking system?

17 MR. NAZEMI: When the district went back and
18 looked at this, we have come up with an estimate that for
19 PM 10, when we look at all the sources, not just the ones
20 that Ms. May has raised in their June 15 or June 30th
21 declaration, but we went back and looked at all the
22 sources. For PM 10, the total adjustment for surplus
23 amounts to 4,983 pounds of PM 10. This is less than four
24 percent of the total PM 10 credits that the district has
25 provided in the -- for the CPV Sentinel project. That

1 would leave the total amount of PM 10 at 132,816 pounds.

2 The facility under the worst-case scenario during
3 the first initial commissioning periods needs only 118,120
4 pounds of PM 10, which shows that the amount of PM 10
5 credits provided in the district's Table A are more than
6 12 percent greater than what CPV Sentinel required for
7 their offsets.

8 The district did the same analysis for SOX,
9 sulfur oxide emissions. And the sulfur oxide emissions
10 reported in Table B as adjusted at our last governing
11 board meeting, are 2,543 -- 25,438 pounds. When we did
12 the surplus adjustment for SOX, the district reduced that
13 total by 88 eight pounds leaving 24,550 pounds. The
14 offsets requirements for CPV Sentinel are 13,928 pounds.
15 This represents more than 75 percent additional SOX
16 offsets than is required by Sentinel project. Therefore,
17 the conclusion is that there is far more than adequate
18 even after surplus adjustments for both PM 10 and SOX in
19 the tables that the district provided.

20 MS. BAIRD: Mr. Nazemi, the remainder of the
21 facilities listed in Ms. May's June 30th supplemental
22 declaration basically contend that the district had not
23 adjusted that facility to current BACT; and I take it your
24 position is the same, that that is not required.

25 MR. NAZEMI: Absolutely.

1 MS. BAIRD: I have no further questions.

2 HEARING OFFICER CELLI: Thank you, Ms. Baird.

3 Ms. Johnson Meszaros, go ahead with cross.

4 CROSS-EXAMINATION

5 MS. JOHNSON MESZAROS: Based on what you just
6 indicated to the committee, I'd like to understand how
7 that impacts the Title 5 permit/FDOC that the district has
8 issued to CPV Sentinel and whether or not that permit has
9 to be modified to show the changes that you articulated
10 having been adopted by your board under the surplus
11 adjustment theory.

12 MR. NAZEMI: I'm not sure on what basis you're
13 asking this question. The district has not issued a
14 Title 5 permit to Sentinel yet.

15 MS. JOHNSON MESZAROS: Is there an FDOC that's
16 been submitted into evidence here today?

17 MR. NAZEMI: The FDOC has been submitted into
18 evidence, and the FDOC indicates that, as I indicated in
19 my May 12th revised addendum, that there is more than
20 adequate offsets available for Sentinel for PM 10 and SOX.

21 MS. JOHNSON MESZAROS: I understand that. My
22 question is, as I understand the FDOC that's been
23 submitted by the district and its subsequent revisions,
24 the FDOC, a portion of the FDOC is the Title 5 permit; is
25 that correct?

1 MR. NAZEMI: The district has released a draft
2 Title 5 permit for this project, but that has nothing to
3 do with the FDOC.

4 MS. JOHNSON MESZAROS: So your position is that
5 the appendix to the FDOC that indicates the credits upon
6 which Sentinel will be relying to meet its offsets
7 requirements is not part of the Title 5 permit?

8 MR. NAZEMI: I don't think that's your question.
9 Your question was was FDOC the Title 5 permit; and my
10 answer is that the FDOC is not the Title 5 permit.

11 MS. JOHNSON MESZAROS: Well, if you would allow
12 me to modify my question to ask the question that I just
13 asked, the appendix that is included that lists the
14 title -- that lists the offsets upon which Sentinel will
15 rely, what do you -- is that a part of something else, or
16 does it stand alone?

17 MR. NAZEMI: That's a very vague question. Can
18 you be more specific, please?

19 MS. JOHNSON MESZAROS: Is there an appendix that
20 the district has submitted that includes a listing of the
21 offset -- the facilities from which offsets will be
22 provided for the Sentinel plant?

23 MR. NAZEMI: Yes. We have submitted that as part
24 of the FDOC and addendum and revised addendum.

25 MS. JOHNSON MESZAROS: Okay. And is it your

1 position that those -- that appendix along with its
2 multiple revised addendums is part of the Title 5 permit
3 or not part of the Title 5 permit?

4 MR. NAZEMI: The Title 5 permit is a permit
5 that's issued to the applicant, and it does not include
6 any of the Appendix N or anything that you're referring to
7 here.

8 MS. JOHNSON MESZAROS: Okay. So then I guess my
9 question is based upon what you just said, what does that
10 mean for Appendix N and its multiple revisions?

11 MR. NAZEMI: I'm not sure. What's the question?

12 MS. JOHNSON MESZAROS: Does Appendix N need to be
13 modified?

14 HEARING OFFICER CELLI: Can I just ask a
15 question? I'm sorry.

16 Appendix N --

17 MS. JOHNSON MESZAROS: Yes.

18 HEARING OFFICER CELLI: -- is that an exhibit
19 that we have?

20 MS. JOHNSON MESZAROS: It's part of the --
21 it's -- the FDOC is -- the FDOC is Exhibit Number 87.

22 HEARING OFFICER CELLI: And 141.

23 MS. JOHNSON MESZAROS: And 141.

24 HEARING OFFICER CELLI: And is Appendix N --

25 MS. BAIRD: I believe it's part of 141.

1 HEARING OFFICER CELLI: Okay. Is that your
2 understanding?

3 MS. JOHNSON MESZAROS: Yes.

4 HEARING OFFICER CELLI: Okay. So I just want to
5 be clear. Appendix N is part of Exhibit 141. Thank you.

6 MS. JOHNSON MESZAROS: Yes.

7 HEARING OFFICER CELLI: Sorry for the
8 interruption. Go ahead.

9 MS. JOHNSON MESZAROS: So I don't mean to ask a
10 question that is complex or convoluted in any way, what
11 I'd just like to know is, there is Exhibit 141, it's got
12 an appendix, in the appendix it lists bunch of facilities
13 and coalesced with that some numbers of offsets that each
14 of those facilities purportedly generated.

15 Do we agree so far with that?

16 MR. NAZEMI: Yes.

17 MS. JOHNSON MESZAROS: Okay. And so I'm simply
18 asking if based upon the system that you just gave, which
19 I understood to say that the -- for various reasons the
20 board requested, or due to recalculations, the district
21 has surplus adjusted some subset of the credits that show
22 in Appendix N, and I'm just simply asking if you'll be
23 submitting some further documentation. Do you think that
24 that causes any change to Appendix N such that it would
25 need to be modified?

1 MR. NAZEMI: I'll be happy to do that if the
2 commissioner would like to get what I just testified to in
3 writing in a reasonable time period, however, there is
4 requirement under state law that these offsets be provided
5 for Sentinel under Assembly Bill 1318, and that's what the
6 district has done.

7 MS. JOHNSON MESZAROS: So your position is that
8 you would -- you're asking the committee to accept your
9 oral testimony today as to the number of credits that are
10 included in the tracking system, the AB 1318 tracking
11 system.

12 MR. NAZEMI: Yes.

13 MS. JOHNSON MESZAROS: That's all I need to
14 understand.

15 HEARING OFFICER CELLI: Nothing further?

16 MS. JOHNSON MESZAROS: That's all.

17 HEARING OFFICER CELLI: Thank you.

18 Ms. Lazerow, cross-examination.

19 CROSS-EXAMINATION

20 MS. LAZEROW: Good morning.

21 MR. NAZEMI: Good morning.

22 MS. LAZEROW: I trust it's still morning.

23 So did district inspectors do a physical
24 inspection of the Elsinore Ready Mix facility while it was
25 still operating?

1 MR. NAZEMI: I'm not sure how --

2 MS. LAZEROW: To document -- I'm sorry, to give
3 you a sense of why I'm asking, you testified that the
4 emission factors had to take into account this progressive
5 series of associated things that happened at Elsinore
6 Ready Mix to understand what the actual emissions were.
7 So my question is, is the information on which you're
8 basing that from a district inspection of that facility
9 when it was operating?

10 MR. NAZEMI: The information that I based my
11 adjustments on was based on the permit that was issued to
12 this facility. And I don't have in front of me records of
13 how often and how many times this facility has been
14 inspected while it operated, but that was based on what
15 they were permitted to operate and they operated according
16 to their permit.

17 MS. LAZEROW: So but you don't have any actual
18 inspection documents showing whether or not it did, in
19 fact, operate the way --

20 MR. NAZEMI: I don't believe that's what I said.
21 I said I don't have anything in front of me here, but
22 there may be some at the district.

23 MS. LAZEROW: Okay. And so I would ask the same
24 question concerning Chandler Aggregates.

25 MR. NAZEMI: Same answer.

1 MS. LAZEROW: And likewise, the -- was there a
2 third aggregate facility that you said that about, or was
3 it just the two?

4 And then my next question is you describe surplus
5 adjustment. First you stated that you don't believe that
6 these emissions have to be reduced to reflect current best
7 available control technology, but you acknowledged that
8 there is some sort of surplus requirement embodied in
9 federal or state law. And then you asserted that the --
10 that the district has, in fact, made a surplus adjustment
11 to all of these credits. That occurred earlier this
12 month; is that right?

13 MR. NAZEMI: Well, it was not like a moment in
14 time that we have been looking at making these
15 adjustments. The requirements are not to make these
16 surplus adjustments until the emission reduction credits
17 are being used. And so the district has done their
18 preliminary analysis and found that these adjustments, if
19 they were to be done today, does not amount to anything
20 more than five percent adjustments to PM 10 and SOX.

21 MS. LAZEROW: So could you describe a little bit
22 more what the surplus adjustment is? I take it it's not
23 adjusting to current best available control technology.
24 What is it?

25 MR. NAZEMI: I believe I said that earlier. It

1 is to adjust for any federal, state, or local rules or
2 regulation that requires the same reductions.

3 MS. LAZEROW: So I did make a note of that
4 description that you gave earlier.

5 Can you give an example from maybe -- from
6 Elsinore or for Chandler?

7 MR. NAZEMI: Yes. An example would be that if a
8 source was operating and shut down and subsequent to their
9 shut down the district or state or the federal rules were
10 adopted or amended, that would require further reductions
11 in the emissions.

12 MS. LAZEROW: Subsequent to the shutdown.

13 MR. NAZEMI: Subsequent to the shutdown.

14 MS. LAZEROW: And so my final question on that
15 point, I believe, is you stated that this surplus
16 adjustment doesn't have to occur until the credits are
17 actually in use. Have all of the surplus adjustments been
18 made to these credits, or do you intend to make further
19 adjustments when the facility begins operating?

20 MR. NAZEMI: It's -- at the time of use means at
21 the time that we issue the permit to this facility. So if
22 there's any further rules or regulations that we adopt or
23 federal or state adopts, if it's before the permit is
24 issued, we will make those adjustments as well.

25 MS. LAZEROW: Thank you. I have no further

1 questions.

2 HEARING OFFICER CELLI: Thank you, Ms. Lazerow.
3 Applicant.

4 CROSS-EXAMINATION

5 MR. CARROLL: Just a couple of questions.

6 Mr. Nazemi, I believe that you testified that the
7 offsets identified in Table A in the case of PM 10 and
8 Table B in the case of SOX, which were part of Appendix N
9 to the addendum to the determination of compliance, and
10 then also attached in revised form to the revision to the
11 addendum, I believe it was your testimony that even with
12 the adjustments that you've discussed today, that the
13 quantity of both PM 10 and SOX offsets identified there
14 are in excess of what would be required to satisfy the
15 offset obligations of the CPV Sentinel Energy Project; is
16 that correct?

17 MR. NAZEMI: That is correct.

18 MR. CARROLL: Okay. So would it be correct to
19 say then that the offsets that are identified in Table A
20 and Table B are not the offsets that will be used to
21 satisfy the offset obligation but comprise the pool from
22 which the offsets that will be used to satisfy the
23 project's offset obligation will come from?

24 MR. NAZEMI: Correct.

25 MR. CARROLL: And, therefore, there's no

1 certainty with respect to any particular line item that
2 those particular offsets would have been or will be used
3 to satisfy the project's offset obligation, correct?

4 MR. NAZEMI: As long as there is adequate amounts
5 from that pool used for this project, that's correct.

6 MR. CARROLL: Thank you. Nothing further.

7 HEARING OFFICER CELLI: Staff?

8 MR. RATLIFF: Staff has its own witness as well,
9 Mr. Radis. And he's on the line. I would like to briefly
10 have him testify as well.

11 HEARING OFFICER CELLI: Okay. Before you do, we
12 have Mr. Nazemi.

13 Ms. Baird, did you have any redirect?

14 MS. BAIRD: Yes.

15 HEARING OFFICER CELLI: I'm hoping that if you
16 do, that whatever my questions are, you'll answer them
17 now.

18 REDIRECT EXAMINATION

19 MS. BAIRD: Mr. Nazemi, you testified that in the
20 surplus adjustment you would look at rules that have come
21 into effect since the facility shutdown that would apply
22 to that facility and make an adjustment to the amount of
23 credits claimed based on what that rule would require,
24 correct?

25 MR. NAZEMI: That is correct.

1 MS. BAIRD: And why is it that BACT, or best
2 available control technology, is not a rule that you would
3 adjust for?

4 MR. NAZEMI: The reason is because best available
5 control technology only applies when a new facility is
6 constructed or there is modification at an existing
7 facility that requires or that results in an emission
8 increase. And those adjustments are typically done at the
9 time a permit is issued, not when you are doing surplus
10 adjustment.

11 MS. BAIRD: So the BACT requirement would not
12 apply to that facility for which you've obtained credits;
13 is that right?

14 MR. NAZEMI: That's correct.

15 MS. BAIRD: I have no further questions.

16 HEARING OFFICER CELLI: Thank you. I'm just
17 going to -- we'll just stay on the record for a moment.

18 The committee has a question with regard to
19 Mr. Mohsen.

20 You testified -- Nazemi, I'm sorry.

21 MR. NAZEMI: Either way works.

22 HEARING OFFICER CELLI: Based on the last
23 question -- the question before last really, when you were
24 talking about the -- sort of this body of emissions
25 reduction credits that are available but none exactly --

1 in other words, sort of -- it sounds like it's this
2 floating mass of ERCs that increases and decreases, and I
3 think the committee's kind of concerned about the need for
4 some exactitude with regard to what the ERCs are going to
5 be that are going to be applied to the Sentinel project.
6 And how do we know that -- which ERCs are going to be
7 applied?

8 MR. NAZEMI: At this point, Mr. -- is it Celli?

9 HEARING OFFICER CELLI: Celli.

10 MR. NAZEMI: -- Celli, at this point all of those
11 ERCs, or I'd like to call them emission reduction offsets
12 not ERCs because we have a different terminology for ERCs,
13 all of those emission reductions are available for use by
14 Sentinel.

15 I believe the question that Mr. Carroll asked and
16 I responded to was whether or not all of those are
17 required for Sentinel. And the answer is not all of them
18 are required. So when Sentinel needs to get their permit,
19 we will retire enough to cover what they need for the
20 permit, and whatever is left in that pool will be left in
21 that pool.

22 HEARING OFFICER CELLI: Thank you. That answers
23 my question. But I'm going to give the parties an
24 opportunity to do any follow-up if they need to, starting
25 with CCAT.

1 Any --

2 MS. LAZEROW: She's got a question right on the
3 tip of her tongue.

4 HEARING OFFICER CELLI: Okay. Recross by CBE.
5 Don't let me forget that I skipped you though.

6 RECROSS-EXAMINATION

7 MS. LAZEROW: So I just wanted to clarify based
8 on that that the district is not going to be offering any
9 credits from any other sources for the Sentinel project.
10 This is the pool that is out there; we don't have to
11 analyze any other shutdowns.

12 MR. NAZEMI: Not at this time, that's correct.

13 MS. LAZEROW: That's all. Thank you.

14 HEARING OFFICER CELLI: Thank you.

15 Ms. Johnson Meszaros.

16 RECROSS-EXAMINATION

17 MS. JOHNSON MESZAROS: It's also the position of
18 the district that it's not necessary for the EPA to
19 approve or otherwise -- I guess to approve this tracking
20 system prior to Sentinel's reliance upon it?

21 MS. BAIRD: Mr. Hearing officer, I believe that's
22 a legal question. Object.

23 HEARING OFFICER CELLI: So your objection is that
24 this witness is not qualified to answer that question
25 based on his expertise? Plus a standing objection, he's

1 not a lawyer, right?

2 MR. NAZEMI: That's correct.

3 HEARING OFFICER CELLI: Sustained.

4 You might try to get to that in another way.

5 MS. JOHNSON MESZAROS: I indeed will. Thank you
6 very much.

7 Is the position of the district and your position
8 based on your capacity as deputy executive officer for
9 permitting and -- you've got a very long title --
10 permitting and --

11 MR. NAZEMI: Compliance --

12 MS. JOHNSON MESZAROS: -- compliance.

13 MR. NAZEMI: -- and enforcement, however you want
14 to call it.

15 MS. JOHNSON MESZAROS: Okay. So that's a lot of
16 stuff to be responsible for.

17 So you have been the person who's overseeing the
18 creation of this AB 1318 tracking system?

19 MR. NAZEMI: I think I have operated under the
20 direction of state law; but yes, I'm responsible for
21 pulling the offsets together. Creation was done at the
22 time the law was passed.

23 MS. JOHNSON MESZAROS: So you've been the person
24 who -- who's been responsible for identifying those
25 credits that would be included in the AB 1318 tracking

1 system?

2 MR. NAZEMI: That's correct.

3 MS. JOHNSON MESZAROS: And you've been the person
4 who's been responsible for identifying what's going to be
5 the emissions factors or surplus adjustments or the like
6 that are related to these credits.

7 MR. NAZEMI: That's correct.

8 MS. JOHNSON MESZAROS: And you are the person who
9 oversees the submission of this SIP amendment?

10 MR. NAZEMI: Yes, I've been responsible for
11 putting the package together, but the district in general
12 is the person who submits this, not just me.

13 MS. JOHNSON MESZAROS: Well, just setting aside
14 that the district as an entity needs individuals to carry
15 out its actions, but you're the --

16 MR. NAZEMI: It's the executive officer; that's
17 my answer.

18 MS. JOHNSON MESZAROS: Okay. So is it -- did
19 the -- did the district prepare a SIP amendment that
20 included this AB 1318 tracking system?

21 MR. NAZEMI: Yes.

22 MS. JOHNSON MESZAROS: And is it the
23 district's -- has the district submitted that to CARB
24 for -- that SIP amendment to CARB, the proposed
25 SIP amendment?

1 MR. NAZEMI: If it hasn't gone out in the mail
2 yet, it will; but the answer is yes.

3 MS. JOHNSON MESZAROS: Okay. And it will go to
4 CARB, and it's CARB's responsibility per the district's
5 request to submit that package to the EPA?

6 MR. NAZEMI: That's correct.

7 MS. JOHNSON MESZAROS: And then the EPA will have
8 to make some determination about it?

9 MR. NAZEMI: The EPA will approve or disapprove
10 that SIP revision, yes.

11 MS. JOHNSON MESZAROS: Okay. And is there a
12 relationship between the district's rules as they exist,
13 including, say, 1303 and the EPA's SIP submission
14 approval?

15 MS. BAIRD: Objection. Ambiguous.

16 HEARING OFFICER CELLI: That's a pretty broad
17 question. This is cross. Maybe you can narrow it down.

18 MS. JOHNSON MESZAROS: When the EPA -- when the
19 EPA receives -- you submitted that document to the EPA
20 with the anticipation that they would act upon it.

21 MR. NAZEMI: Yes.

22 MS. JOHNSON MESZAROS: And their action upon that
23 has some kind of significance for the district and its
24 ability to rely upon the tracking system?

25 MR. NAZEMI: Both for the district and the

1 applicant.

2 MS. JOHNSON MESZAROS: Okay. That's all. Thank
3 you.

4 HEARING OFFICER CELLI: Thank you.

5 So we are -- both intervenors have crossed, so
6 now we're with the applicant.

7 MR. CARROLL: I have no further questions for the
8 witness.

9 HEARING OFFICER CELLI: Thank you.

10 Redirect?

11 MS. BAIRD: Nothing.

12 HEARING OFFICER CELLI: Thank you, Mr. Nazemi.
13 Staff?

14 MR. RATLIFF: Yes. The staff has Mr. Steve Radis
15 on the line, and I would like to briefly give him an
16 opportunity to add, if he chooses to, to any of the
17 testimony that he's heard today with regard to the
18 testimony of Ms. May, the late testimony of Ms. May.

19 HEARING OFFICER CELLI: Thank you. If you could
20 just make sure that we're not just giving him carte
21 blanche, sort of guide him, if you would.

22 MR. RATLIFF: Well, I intend to actually give him
23 carte blanche because the testimony of Mr. Nazemi was very
24 specific and I don't want him to have to recreate that
25 testimony or go item by item. But if he wishes to, I

1 wanted him to have the opportunity to add to any of the
2 testimony that he has heard today.

3 HEARING OFFICER CELLI: He could summarize.
4 Okay.

5 MR. RATLIFF: So Mr. Radis, are you still on the
6 line?

7 MR. RADIS: I'm still here.

8 MR. RATLIFF: Oh, great.

9 DIRECT EXAMINATION

10 MR. RATLIFF: You've heard the testimony today of
11 Mr. Nazemi. With regard to that, and without requesting
12 that you go through similar detail in discussing the
13 testimony of Ms. May, is there anything you would like to
14 add to supplement Mr. Nazemi's testimony or to agree or
15 disagree with it?

16 MR. RADIS: Basically, we kind of went through
17 the same exercise of looking at Julia May's declaration,
18 supplemental declaration, and came to the same conclusion
19 that BACT is not required for adjusting these emission
20 reduction offsets. We basically concur with the district
21 in terms of the fact that they used the appropriate
22 methodology, they were extremely conservative in
23 estimating the available emission reduction credit, and
24 that there are more than enough credits in the inventory
25 or account that would be available for the project to

1 adequately offset their emission.

2 MR. RATLIFF: And this would be true even after
3 there is a surplus adjustment?

4 MR. RADIS: Correct.

5 MR. RATLIFF: Do you have anything else you want
6 to add to that?

7 MR. RADIS: I do not.

8 MR. RATLIFF: Thank you.

9 HEARING OFFICER CELLI: Thank you.

10 Cross-examination with CCAT first.

11 MS. JOHNSON MESZAROS: No cross.

12 HEARING OFFICER CELLI: Thank you.

13 Cross, CBE.

14 MS. LAZEROW: I have no questions.

15 HEARING OFFICER CELLI: Thank you.

16 Cross for applicant?

17 MR. CARROLL: No questions from applicant.

18 HEARING OFFICER CELLI: Let me just ask the
19 committee -- one moment. Off the record.

20 (Recess.)

21 HEARING OFFICER CELLI: Thank you, Mr. Radis, for
22 your testimony.

23 MR. RADIS: You're welcome.

24 HEARING OFFICER CELLI: Next witness. Staff?

25 MR. RATLIFF: No, that is all of our witnesses.

1 And I do want to emphasize that although the focus has
2 been on the rebuttal of the second round of testimony that
3 Ms. May filed, we did want to make these witnesses
4 available also for the committee's questions. So we
5 encourage you to ask any further questions that you may
6 have of these witnesses with regard to any of the topics
7 that you feel uncertain about.

8 HEARING OFFICER CELLI: Well, thank you,
9 Mr. Ratliff. The committee at this time has no questions
10 of either Mr. Nazemi or Mr. Radis.

11 PRESIDING MEMBER BOYD: Rest assured,
12 Mr. Ratliff, if we did, we would.

13 MR. RATLIFF: Okay.

14 HEARING OFFICER CELLI: With that, any further
15 witnesses from either South Coast or staff?

16 MR. RATLIFF: No.

17 There is one item I wanted to bring up, and that
18 is that the district did file response to the legal
19 argument of Mr. Harris. That was also POS-ed to all the
20 parties. It is not our intention to make it an
21 evidentiary exhibit because we do not believe that it is
22 evidence, but we wanted to make sure that the committee
23 was aware of it, and --

24 MS. BAIRD: And it should be part of the record
25 would be our position.

1 MR. RATLIFF: It is part of the record?

2 I believe it has been docketed, has it not,
3 Ms. Baird?

4 HEARING OFFICER CELLI: When was it filed?

5 MS. BAIRD: June 30th.

6 MR. RATLIFF: June 30th.

7 HEARING OFFICER CELLI: June 30th, okay. And
8 that went out to the POS?

9 MS. BAIRD: Yes.

10 HEARING OFFICER CELLI: I've got nodding,
11 affirmative yeses from both intervenors.

12 I think that in the abundance of caution the
13 committee would prefer to make it an exhibit just so we
14 have a means by which we can identify it, refer to it.

15 Is this staff's exhibit?

16 MR. RATLIFF: This would be staff's --

17 HEARING OFFICER CELLI: I believe it would be
18 219.

19 MR. RATLIFF: 220. 219 was Mr. Nazemi's rebuttal
20 testimony.

21 MS. BAIRD: I had that as 218.

22 MR. RATLIFF: So do I.

23 HEARING OFFICER CELLI: All right. Let's clean
24 this up right now.

25 MR. RATLIFF: 218, you're right. 218, rebuttal

1 of Mohsen Nazemi. And what do I have as Exhibit -- so
2 when we were talking earlier, and it was the testimony of
3 Mr. Nazemi, I think I'd asked him if he was talking about
4 the conservative ratios of 50 percent, PM 10 to PM, and
5 was talking about page 9 of what I wrote down as
6 Exhibit 219, and that was actually page 9 of Exhibit 218;
7 is that correct?

8 HEARING OFFICER CELLI: Yes.

9 MR. RATLIFF: Sorry about that. Thank you for
10 correcting that.

11 So then exhibit marked for identification 219 is
12 what?

13 MS. BAIRD: It's entitled "Legal Argument of
14 South Coast Air Quality Management District in response to
15 intervenor's testimony filed June 30th."

16 HEARING OFFICER CELLI: Any objection to that
17 legal argument coming in by CCAT as an exhibit?

18 We're with CCAT. Ms. Johnson Meszaros, any
19 objection to Exhibit 219?

20 MS. JOHNSON MESZAROS: May I have just a second
21 to talk with my co-intervenor?

22 HEARING OFFICER CELLI: Sure.

23 MS. JOHNSON MESZAROS: Thank you.

24 MR. RATLIFF: Mr. Celli, could we perhaps have a
25 clarification? It was not the staff's intent to offer

1 this as evidence but merely to mark it as an exhibit for
2 the convenience of the committee you said.

3 HEARING OFFICER CELLI: That's exactly what we're
4 doing, and that's why we're doing it.

5 MS. JOHNSON MESZAROS: Okay. So that's what I
6 was trying to understand. So it's not evidence, it's just
7 getting a number so we have something to refer to.

8 HEARING OFFICER CELLI: That's right. I'm
9 allowing it into the record so I can look at it and
10 understand it and put it in context in the transcript.

11 MS. JOHNSON MESZAROS: Okay. There's no
12 objection.

13 HEARING OFFICER CELLI: Any objections from CBE?

14 MS. LAZEROW: No objection.

15 HEARING OFFICER CELLI: Applicant, any objection?

16 MR. CARROLL: Well, I guess I have a question in
17 light of that last exchange.

18 So as I look at what the document that we're
19 talking about, which was just referenced by Ms. Baird, it
20 responds to certain legal arguments made in the testimony
21 filed by Mr. Harris and Ms. May. The entirety of the
22 declarations from Ms. May and Mr. Harris have been
23 admitted into evidence over the objection of the parties
24 that they consisted of legal argument. So I want to -- I
25 want to make sure that the response to those legal

1 arguments is on an equal footing with the legal arguments
2 themselves. So if simply identifying it as an exhibit
3 accomplishes that, I'm fine with that; but since, you
4 know, proper or not, the legal arguments made by
5 Mr. Harris and Ms. May have been moved into evidence, I
6 believe it's only appropriate that the response to those
7 legal arguments have an equal footing.

8 HEARING OFFICER CELLI: Therefore, you do not
9 object to the admission of Exhibit 219 based on the what's
10 good for the goose is good for the gander doctrine?

11 MR. CARROLL: No, I do not, but I wasn't sure
12 that they were being admitted as opposed to simply
13 identified.

14 HEARING OFFICER CELLI: They've been received.
15 So this would be to receive it into evidence as an
16 exhibit.

17 MR. CARROLL: No objection to that.

18 HEARING OFFICER CELLI: With that, Exhibit 219
19 will be received into evidence as Exhibit 219.

20 (Staff's Exhibit 219 was marked for
21 identification and received into evidence.)

22 HEARING OFFICER CELLI: Anything further from
23 staff?

24 MS. BAIRD: Just for purposes of clarification,
25 you already ruled on our motion to disqualify Mr. Harris.

1 I assume that as well as the response by CCAT as well as
2 our reply do not need to be made actually into exhibits
3 but are simply legal arguments.

4 HEARING OFFICER CELLI: That's right.

5 MS. BAIRD: Thank you.

6 HEARING OFFICER CELLI: That we don't need it in
7 the record.

8 So thank you for that clarification.

9 With that then, really there's nothing further
10 from staff, we move to California Communities Against
11 Toxics.

12 Is there anything further you had in terms of
13 witnesses or exhibits, evidence you wish to put in?

14 MS. JOHNSON MESZAROS: Nothing further.

15 HEARING OFFICER CELLI: Thank you.

16 And now to Communities for a Better Environment,
17 CBE.

18 MS. LAZEROW: All those acronyms.

19 Nothing further.

20 HEARING OFFICER CELLI: Thank you.

21 Applicant, you bat last.

22 MR. CARROLL: Nothing further from the applicant,
23 thank you.

24 HEARING OFFICER CELLI: Well, then with that, we
25 received all of the evidence with regard to air quality.

1 The record is closed.

2 As to air quality, at this time the entire record
3 of evidence for CPV Sentinel is closed. We will take
4 public comment. I see Ms. Jennings is here. I want to
5 know if there are any members of the public here today in
6 the room, in Hearing Room A.

7 Anyone wish to make a comment who is present here
8 today?

9 We have no hands indicating they wish to make a
10 public comment.

11 So now I'm going to go on the phone to the WebEx
12 people.

13 Ladies and gentlemen on the phone, I have a
14 number of you who are identified and a number of you who
15 are not. So the way I intend to proceed is I'm going to
16 call the names of the people who did identify themselves,
17 and then after that, if your name was not identified and
18 we ask for further comment, you want to make a comment,
19 you'll need to speak up at that time.

20 So I have Bill Kelly.

21 Did you wish to make a comment? Bill Kelly?

22 Okay. Some people may have put us on hold. Let
23 me make sure I don't have people muted. No, they're not.

24 Bob Wren?

25 MR. WREN: No comment.

1 HEARING OFFICER CELLI: Thank you.

2 John Foster?

3 MR. FOSTER: No comment, thank you.

4 HEARING OFFICER CELLI: Bill Kelly, did you come
5 back? Bill Kelly, did you wish to make a comment?

6 Okay. Dale Evanson?

7 MR. EVANSON: No comment. Thank you.

8 HEARING OFFICER CELLI: Thank you.

9 Steve Radis was a witness.

10 Vimal Chauhan? I'm sorry if I'm messing up
11 somebody's name here.

12 Does anybody recognize this person?

13 Is he with the applicant, he or she?

14 MR. CARROLL: Yes.

15 HEARING OFFICER CELLI: And it also appears that
16 they hung up anyway.

17 Okay. Those are all of the telephone users that
18 identified themselves. I'm going to see if there's anyone
19 now on the telephone who wishes to make a public comment.
20 Please speak up now.

21 Okay. Before I give it back to Commissioner Boyd
22 to adjourn, I'd like to discuss briefs with the parties
23 and briefing schedule for briefs on air quality.

24 Do the parties believe that they need to brief
25 air quality any further?

1 Applicant?

2 MR. CARROLL: Applicant does not see a need for
3 further briefing on air quality.

4 HEARING OFFICER CELLI: Staff?

5 MR. RATLIFF: Well, commissioners, it's usually
6 the committee who uses the briefs, and so my question
7 would be to you, do you want further briefing or do you
8 think you require it?

9 HEARING OFFICER CELLI: We're off the record.

10 (Recess.)

11 HEARING OFFICER CELLI: The committee doesn't
12 request they be briefed; however, they're going to give
13 the parties an opportunity if they wanted it and if it was
14 necessary to brief any issues that they wanted to. If
15 they do, then there would -- we would obviously have to
16 give the parties an opportunity to rebut the brief, but if
17 there are no briefs, then that's -- that's the end of it.

18 MR. RATLIFF: Well, the staff would at a minimum
19 like to file a brief with proposed findings and
20 conclusions and the evidence that supports such findings.
21 So we would do that at a minimum.

22 HEARING OFFICER CELLI: Okay. CCAT, did you have
23 a position with regard to briefs and need for briefs?
24 Looks like we're going to have briefs anyway, but go
25 ahead. Let's hear your --

1 MS. JOHNSON MESZAROS: Since we're going to have
2 briefs anyway, and first, I'm assuming that when staff
3 submits its proposed findings and the like there will be
4 rebuttal opportunity for that? Okay.

5 And we would like to brief at a minimum the
6 issues regarding these offset credits. I don't know how
7 specific I need to be, if you're going to give us a page
8 limit --

9 HEARING OFFICER CELLI: I am.

10 MS. JOHNSON MESZAROS: -- or something like that,
11 then we will let the page limit dictate the level of
12 specificity.

13 HEARING OFFICER CELLI: The way that it would
14 work, just to be clear, is that there would be one round
15 of briefs, one round of rebuttals, that's it. Okay?

16 So and, CBE, you would also like to brief?

17 MS. LAZEROW: I agree, yes --

18 HEARING OFFICER CELLI: Okay.

19 MS. LAZEROW: -- with the general momentum.

20 HEARING OFFICER CELLI: Let's look at our -- I'm
21 going to be really honest with you, we are getting these
22 ARRA solar cases out, and I am going to be working on that
23 before I can get to getting Sentinel written, and that
24 will probably take a good month. In the meanwhile, we
25 have to get transcripts off, the parties are going to file

1 a brief, parties are going to file a rebuttal brief.

2 So I'm not going to jam everybody on the
3 calendar, just need to -- I wonder if the parties wish to
4 pick a date. I'm thinking really along the lines of a
5 couple of weeks after -- I can't open my calendar on this
6 one. Today is the 19th of July, so we go into August.
7 It's going to take three days to get a transcript off. So
8 middle of August for a brief.

9 Staff, do you think -- is there a date that works
10 for you?

11 Everybody's had their vacation, I believe.

12 MS. HOLMES: Staff would suggest the week of the
13 9th of August.

14 HEARING OFFICER CELLI: All right. How's Friday
15 the 13th? That's auspicious. Friday the 13th would be
16 briefs due; and then should we say the last Friday in
17 August, is August 27th, for rebuttal. That gives you two
18 weeks to rebut. And I'm going to cap the briefs at
19 20 pages, please, double spaced, 12-point font.

20 MS. JOHNSON MESZAROS: An eighth of an inch for
21 the margin?

22 HEARING OFFICER CELLI: Yes.

23 I'm just guaranteeing that they'll get read.

24 With that, is there anything further from anyone?

25 Applicant?

1 MR. CARROLL: Just to clarify, since we're going
2 to have briefing anyway, applicant reserves the right to
3 file briefs should it deem it necessary, although we
4 indicated that we didn't think it was necessary.

5 HEARING OFFICER CELLI: That's right, but it's
6 not necessary. And the applicant can hold out till
7 rebuttal.

8 MR. CARROLL: One further question. In light of
9 that briefing schedule, can you give us any sense of when
10 you might expect a proposed decision?

11 HEARING OFFICER CELLI: Yes. Actually, the bulk
12 of the rest of it is already written; I mean, really, it's
13 just we're down to air quality. The problem is I'm
14 writing several decisions at the same time right now
15 because of this unusual circumstance. This is not normal,
16 the solar funded -- ARRA funded solar power plants. And
17 I'm optimistic that by August 27th when the last brief is
18 in, I could probably get the last of it out within about
19 two weeks of that date. And I'm thinking would be --
20 would include, you know, having the committee read it and
21 get back to us so that we could in September have a -- I
22 can't make a promise now on this because my time isn't
23 necessarily my own, but in September, I think it would be
24 reasonable to expect a PMP.

25 MR. CARROLL: We appreciate that. And we

1 obviously understand the ARRA projects and the need to
2 address the ARRA projects; but we just reiterate, as
3 you've acknowledged, that this application has been
4 pending for quite some time, and we have our own very
5 important reasons, and southern California has its own
6 very important reasons for seeing this project move
7 forward.

8 HEARING OFFICER CELLI: I'll do everything in my
9 power to get it out as quickly as I can.

10 PRESIDING MEMBER BOYD: I can assure you it will
11 be finished in my term of office.

12 HEARING OFFICER CELLI: Staff, anything in
13 conclusion?

14 MS. HOLMES: Nothing further.

15 HEARING OFFICER CELLI: CCAT, please.

16 MS. JOHNSON MESZAROS: Nothing further.

17 HEARING OFFICER CELLI: CBE?

18 MS. LAZEROW: Nothing.

19 HEARING OFFICER CELLI: And South Coast?

20 MS. BAIRD: Nothing.

21 HEARING OFFICER CELLI: Thank you. Thank you
22 all.

23 Commissioner?

24 PRESIDING MEMBER BOYD: I want to thank everybody
25 for being here today. I want to thank everybody for a

1 timely hearing today to allow me to go back home and go to
2 bed with my walking pneumonia that I've been walking
3 around with.

4 In any event, we look forward to moving all these
5 things along as quickly as we can. And I thank you, and
6 I'm glad to put faces with names today.

7 Thank you, everybody. Hearing adjourned.

8 (Thereupon the hearing adjourned at 12:14 p.m.)

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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Evidentiary Hearing Before the California Energy Resources Conservation and Development Commission, that I thereafter had it transcribed under my direction.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in the outcome of said meeting.

I WITNESS WHEREOF, I have hereunto set my hand this 22nd day of July 2010.

JOHN COTA